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6  
7 BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
8 STATE OF CALIFORNIA  
9

10 In the Matter of the Accusation	)	
and Petition to Revoke Probation	)	No. D-5364
11 Against:	)	
	)	
12 STEPHEN BRIAN TURNER, M.D.	)	PROPOSED DECISION
4225 Twilight Court	)	PURSUANT TO STIPULATION
13 Hayward, CA 94542	)	<u>AND ORDER THEREON</u>
Physician and Surgeon	)	
14 Certificate No. G46572,	)	
	)	
15 Respondent.	)	
	)	

16  
17 IT IS HEREBY STIPULATED by and between respondent  
18 Stephen Brian Turner, M.D. ("respondent") with the advice and  
19 counsel of his attorney, Jonathan Newman, Esq., and Dixon Arnett,  
20 in his capacity as Executive Director of the Medical Board of  
21 California by and through his attorney, Daniel E. Lungren,  
22 Attorney General of the State of California by Vivien Hara Hersh,  
23 Supervising Deputy Attorney General, as follows:

24 1. On or about March 21 and 22, 1994, a hearing was  
25 held in the above-referenced case before Michael C. Cohn,  
26 Administrative Law Judge ("ALJ"). Respondent was present and  
27 represented by his attorney, Mr. Newman, and complainant was

1 represented by Vivien Hara Hersh, Supervising Deputy Attorney  
2 General. Evidence was taken and the matter was submitted.

3           2. On or about April 18, 1994, ALJ Cohn submitted to  
4 the Division of Medical Quality of the Medical Board of  
5 California ("Division") a proposed decision in the case. A true  
6 and correct copy of this proposed decision is appended hereto as  
7 "Exhibit A" and is incorporated herein by reference as if fully  
8 set forth.

9           3. On or about July 1, 1994, the Division issued a  
10 non-adoption of the ALJ Cohn's proposed decision, proposing to  
11 decide the case on its own based upon the evidence, including the  
12 transcript. A true and correct copy of this order of non-  
13 adoption is appended hereto as "Exhibit B."

14           4. Respondent and Complainant desire and agree to  
15 enter into the following stipulation which, if adopted by the  
16 Division, will become the decision of the Board. In entering  
17 into this stipulation, respondent fully and voluntarily waives  
18 his right to argue against the non-adoption of the proposed  
19 decision of ALJ Cohn and he further agrees to waive his right to  
20 reconsideration, judicial review and any and all other rights  
21 which may be accorded him by the Administrative Procedure Act and  
22 the laws of the State of California with respect to the  
23 Accusation against him, excepting his right to petition for  
24 modification or termination of probation pursuant to Business and  
25 Professions Code section 2307.

26 //

27 //

1           5. It is acknowledged by the parties hereto that this  
2 Stipulation constitutes an offer in settlement to the Division  
3 and is not effective until adoption by the agency. In the event  
4 this Stipulation is not adopted by the Division, nothing herein  
5 recited shall be construed as a waiver of respondent's right to  
6 contest the non-adoption or as an admission of truth of any of  
7 the matters charged in the Accusation or as an acceptance of the  
8 proposed decision of ALJ Cohn.

9           6. Based upon the foregoing recitals, IT IS HEREBY  
10 STIPULATED AND AGREED that the Division of Medical Quality of the  
11 Medical Board of California, without further action, may issue  
12 the following order:

13                 The Division of Medical Quality adopts the  
14 attached Proposed Decision of Michael C. Cohn, Administrative Law  
15 Judge as its decision in this case, except that two more  
16 conditions are added to the penalty order, as follows:

17                 14. Within 60 days after the one year suspension  
18 period set forth as condition 1 of this decision, respondent  
19 shall take and pass an oral clinical examination in his proposed  
20 field of medical practice. Said examination shall be  
21 administered by the Division or its designee. If respondent  
22 fails this examination, respondent must take and pass a  
23 reexamination consisting of a written as well as an oral  
24 examination. The waiting period between repeat examinations  
25 shall be at three month intervals until success is achieved.  
26 Respondent shall pay the cost of the examination(s).

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1                   Respondent shall not practice medicine until  
2 he has passed the required examination and has been so notified  
3 by the Division in writing. Failure to pass the required  
4 examination no later than 100 days prior to the termination date  
5 of probation shall constitute a violation of probation.

6                   16. Within 90 days of the effective date of this  
7 decision, and on an annual basis thereafter, respondent shall  
8 submit to the Division for its prior approval an educational  
9 program or course to be approved by the Division or its designee  
10 in consultation with respondent about the subject of the  
11 educational program or course, which shall not be less than 40  
12 hours per year, for each year of probation. This program shall  
13 be in addition to the Continuing Medical Education requirements  
14 for re-licensure. Following the completion of each course, if  
15 good cause appears to do so, the Division or its designee may  
16 administer an examination to test respondent's knowledge of the  
17 course. Respondent shall provide proof of attendance for 65  
18 hours of continuing medical education of which 40 hours were in  
19 satisfaction of this condition and were approved in advance by  
20 the Division or its designee.

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1 17. Respondent understands that pursuant to the  
2 provisions of Business and Professions Code section 2307(c), he  
3 may petition the Division of Medical Quality for modification of  
4 any condition of his probation, including the requirement for  
5 additional continuing medical education, after a minimum of one  
6 year has elapsed since the effective date of this decision.

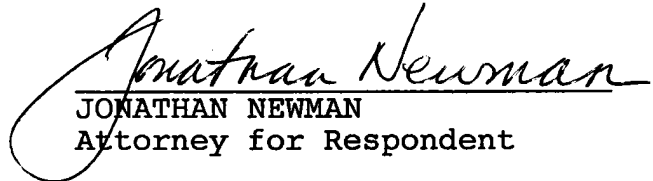
7  
8 DATED: 7/25/94

DANIEL E. LUNGREN  
Attorney General of the  
State of California




VIVIEN HARA HERSH  
Supervising Deputy Attorney General  
Attorneys for Complainant

13  
14 DATED: 7-20-94

  
JONATHAN NEWMAN  
Attorney for Respondent

15  
16  
17  
18 I hereby certify that I have read the foregoing  
19 Stipulation in its entirety, that my attorney of record has fully  
20 explained the legal significance and consequences thereof, that I  
21 fully understand all of the same and accept the terms and  
22 conditions outlined therein. In witness thereof, I affix my  
23 signature this 21 day of July, 1994, at HAYWARD,  
24 California.

25  
26  
27  
  
STEPHEN B. TURNER, M.D.  
Respondent

**EXHIBIT A**

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

STEPHEN B. TURNER, M.D. )

No. D-3384

OAH No. L-52478

Physician's and Surgeon's )  
Certificate No. G-046572, )

Respondent. )

**DECISION**

The Division of Medical Quality non-adopted a Proposed Decision by an MQRC panel in this case, and proceeded to decide the case itself upon the record, including the transcript.

The parties were afforded the opportunity to present written and oral arguments before the Division itself.

Having reviewed the entire matter, the Division now makes this decision:

The Division adopts the attached Proposed Decision of the MQRC panel as its decision in this case, except that two more conditions are added to the penalty order, as follows:

10. As part of probation, respondent is suspended from the practice of medicine for 60 days beginning the effective date of this decision.
11. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least 20



hours a month for the first 24  
months of probation.

All other terms and conditions of the penalty order in  
the Proposed Decision remain the same and are adopted.

The effective date of this decision shall be March 11, 1992

So ordered February 10, 1992

MEDICAL BOARD OF CALIFORNIA  
DIVISION OF MEDICAL QUALITY

By Theresa Chassen

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
and Petition to Revoke Probation	)	
Against:	)	No. D-5364
	)	
STEPHEN BRIAN TURNER, M.D.	)	OAH No. N-9311073
4225 Twilight Court	)	
Hayward, CA 94542	)	
Physician and Surgeon	)	
Certificate No. G46572,	)	
	)	
Respondent.	)	
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PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in San Francisco, California on March 21 and 22, 1994.

Vivien Hara Hersh, Deputy Attorney General, represented complainant.

Respondent Stephen Brian Turner, M.D., was present and was represented by Jonathan Newman, Attorney at Law, 1255 Post Street, Suite 850, San Francisco, California 94109.

FINDINGS OF FACT

I

Official notice is taken that complainant Dixon Arnett made the Accusation and Petition to Revoke Probation in his official capacity as Executive Director of the Medical Board of California ("Board").

II

On November 23, 1981 the Board issued physician and surgeon certificate No. G46572 to Stephen Brian Turner, M.D. ("respondent"). Respondent's certificate has been renewed through October 31, 1995. Respondent is currently on probation to the Board.

### III

By a decision of the Board effective March 11, 1992, respondent's certificate was revoked for unprofessional conduct pursuant to Business and Professions Code sections 2234(e) (commission of an act involving dishonesty or corruption) and 2234/2236 (conviction of a crime substantially related to the qualifications, functions or duties of a physician). In particular, it was found that on March 19, 1984, while a radiology resident at the University of Southern California, respondent exposed himself and masturbated in the presence of two minor females on the premises of the USC Medical Center; and that on May 9, 1984, in the Municipal Court of the Los Angeles Judicial District, respondent was convicted, upon his plea of nolo contendere, of three counts of violating Penal Code section 647(a) (lewd and dissolute conduct). This conviction was based upon respondent's having exposed himself in public places on three different dates between February and March 1984.

The revocation was stayed, and respondent was placed on probation to the Board for five years upon certain terms and conditions. One of those probationary terms required respondent to "obey all federal, state and local laws, and all rules governing the practice of medicine in California." A copy of the decision (No. D-3384) is attached and incorporated by this reference.

### IV

Respondent stipulated to the truth of the following facts: On or about November 16, 1992, victim S.K.<sup>1</sup>, a young female adult, was walking to work on a residential street in Berkeley, California. Respondent, who was sitting in a parked car and holding a map in his right hand, hailed S.K. and asked directions to the University of California campus. S.K. looked inside and began to give directions. S.K. then noted that respondent was masturbating his exposed and erect penis with his left hand, making no effort to conceal his actions. Respondent continued to ask questions, apparently trying to detain S.K., and S.K. tried not to let respondent know she noticed what he was doing and left the scene. As S.K. continued to walk to work, respondent circled the block, making U-turns with his car, driving past S.K., even parking on two more occasions within S.K.'s sight. S.K. called the police and reported the license number of the car, which was traced to respondent. Respondent was subsequently arrested and charged with a violation of Penal Code section 314.1 (indecent exposure).

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<sup>1</sup> Initials are used to protect the victim's right to privacy.

V

On April 22, 1993, in the Municipal Court for the Berkeley-Albany Judicial District, County of Alameda, respondent was convicted after a jury trial of the charged violation of Penal Code section 314.1. Considering the circumstances as set forth in Finding IV, above, the crime of which respondent was convicted is found to be substantially related to the qualifications, functions and duties of a physician and surgeon.

Following conviction, respondent was placed on three years formal probation with terms and conditions which included 30 days in jail (to be served in the Sheriff's Weekend Work Program), fines and fees totaling \$1,250, restitution of \$39.50 to S.K., continued counseling, and the requirement he stay away from South Berkeley and S.K. Respondent stipulated that his conviction has now become final.

VI

Pursuant to the terms of the probation imposed upon him by the Board in its decision in case No. D-3384, in March 1992 respondent underwent a psychiatric examination by Bruce S. Victor, M.D. Psychological testing was done in conjunction with that examination by Randall B. Smith, Ph.D.

Dr. Victor made an Axis I diagnosis of "Exhibitionism (302.40) --in remission, by report," and an Axis II diagnosis of "Personality Disorder NOS (301.9) --with predominance of narcissistic and passive aggressive features -- moderate severity." Although Dr. Victor concluded respondent was fit to conduct a medical practice with safety to the public upon the conditions imposed by the Board in its probationary order, he "strongly" recommended that respondent undertake psychotherapy on a weekly basis for at least a year. This recommendation was made for two main reasons: first, respondent did not appear to be "appropriately remorseful regarding his actions, or cognizant of the effects they might have had on his victims"; and second, respondent's pattern in dealing with problems in his life had been "to externalize blaming them upon unfair provocation by his environment." Dr. Victor hoped psychotherapy would enable respondent to "enhance feelings of empathy for others" and would help him identify his characteristic responses to stresses and take responsibility for changing them.

VII

As a result of Dr. Victor's recommendation, respondent was required to undertake psychiatric treatment under the terms of his probation. Respondent began biweekly psychotherapy

sessions with John B. Sikorski, M.D., in August 1992. Dr. Sikorski had also treated respondent in 1986 through the Board's diversion program.

In December 1992, in his first report to respondent's Board probation officer, Dr. Sikorski reported that respondent had initially expressed the opinion psychotherapy "was not essential for his wellbeing because his current life seems stable and productive and he was not having any current difficulties or conflicts." However, as the therapy continued, respondent's attitude concerning the utility of psychotherapy became "more accepting and his participation in the process reflected full cooperation..."

While he believed respondent had been fully cooperative with him, Dr. Sikorski first learned of respondent's Berkeley arrest in late January 1993, when respondent's Board probation officer called him. In his next report to the probation officer, dated April 30, 1993, Dr. Sikorski reported respondent, upon advice of his attorney, had been unwilling to talk about the incident until after his conviction. At their first session following the conviction, Dr. Sikorski wrote, respondent "was exceedingly distraught and acknowledged for the first time to me his problem with exhibitionism, and his fear of losing his medical license and also of losing his family." Respondent "acknowledged some relief in acknowledging the nature of his problem and the possibility of some real treatment for the obsessive-compulsive nature of his struggle." They "agreed on his need for at least weekly psychotherapy and the need to explore further additional group treatment around his symptomatic behavior."

Despite this agreement, however, respondent's therapy sessions with Dr. Sikorski continued only on a biweekly basis until August 1993. On August 30, 1993 Dr. Sikorski reported respondent had "found it necessary to cancel a number of visits with me" because of "conflicting schedules, traffic and transportation problems" and had called that day to inform Dr. Sikorski "he would be unable to make further appointments with me because of the transportation and commuting difficulties." Respondent requested Dr. Sikorski provide him with the names of psychiatrists closer to respondent's home.

However, in late September 1993 respondent called Dr. Sikorski and said he wanted to resume therapy since he realized he needed to be in treatment. Respondent's biweekly therapy sessions with Dr. Sikorski resumed on September 22. On December 22, 1993 Dr. Sikorski reported that since his return to therapy, respondent "has been for the most part more cooperative than in the past and more revealing of his conflicts and impulses..." Dr. Sikorski also reported he had been making attempts to get respondent into a group for sexual offenders.

## VIII

Respondent currently sees Dr. Sikorski about three times a month. Dr. Sikorski, who feels respondent requires individual therapy a minimum of once a week, group therapy a minimum of once a week, and additional attendance at informational or support groups, expects he and respondent will "get close" to a weekly schedule.

Respondent is also now in biweekly individual therapy with Eugene Merlin, who operates the East Bay Sexual Offender Treatment Program. That program is described as "a cognitive-behavioral treatment program" for male sexual offenders which utilizes the model of "Relapse Prevention, a method that looks to identifying the warning signs and triggers for sexual behavior." As Merlin explained in a March 16, 1994 letter: "One goal for offenders is to have them develop coping skills to thwart urges and fantasies. An equally important other goal is the development of empathy for the many victims of their offenses and a thorough grasp of why what they did was wrong."

Respondent is now in the initial phase of treatment at the East Bay Sexual Offender Treatment Program. This phase consists of 12 educational sessions focusing on sexual offenses and empathy-building. At the time of the hearing, respondent had been to three of these sessions, attending on alternate weeks to his individual sessions with Merlin. The second phase of the sexual offender treatment program is a six-week introductory course on Relapse Prevention. This is followed by placement into an ongoing sexual offender group. The minimum commitment to the program is one year. Most offenders remain in the program for two and one-half years.

## IX

After many years of denial, respondent now considers himself a sex offender and acknowledges his problem with exhibitionism has existed for more than 10 years. Respondent concedes he lied to Drs. Victor, Smith and Sikorski when he denied to each of them he had exposed himself after the March 1984 incident which resulted in his arrest and conviction in Los Angeles. In fact, respondent now admits, he exposed himself on "many occasions" between March 1984 and November 1992. He attributes his lack of candor with his examiners to his general denial about his condition and his fear that disclosures of continuing offenses would be reported to the Board. Respondent describes the 1993 jury verdict as the "turning point" which finally made him realize he had a problem which must be dealt with if he wanted to improve his life. As a result, respondent became more forthcoming with Dr. Sikorski, as described in Dr. Sikorski's April 1993 report.

Respondent realizes his exhibitionism is a condition which cannot be cured. Through therapy and the East Bay Sexual Offenders Treatment Program, however, respondent believes his aberrant behavior can be controlled. Respondent recognizes his urges are likely to persist for many years and that he requires years of therapy. He further recognizes that a successful resolution "needs to come from myself, internally."

Concerning the "hiatus" he took from therapy with Dr. Sikorski in August and September 1993, respondent testified this was "a period of frustration" for him. Dr. Sikorski was looking for a group therapy program for respondent and it was taking more time than respondent expected. He became "frustrated" and "a little angry and upset," leading him to want to curtail therapy with Dr. Sikorski. He reconsidered, however, after receiving a reminder from his Board probation officer that the terms of his probation required continued therapy and upon a realization that the alternative to continuing with Dr. Sikorski was "to start all over" with a new therapist.

Respondent has begun to exhibit some empathy for the victims of his behavior. In June 1993 respondent told his criminal probation officer he would like the chance to apologize to S.K. With S.K.'s concurrence, he availed himself of that opportunity at this hearing. Respondent's apology to S.K. for the emotional trauma he had caused her appeared sincere.

X

Dr. Sikorski believes respondent's underlying personality disorder, consisting of narcissistic and passive-aggressive traits, has allowed his exhibitionism to continue. Personality disorders are difficult to change "without significant external forces which confront one with one's behavior." In respondent's case, Dr. Sikorski believes, it was his 1993 conviction which finally led respondent to "make some changes or face some dire consequences." Dr. Sikorski felt "no progress" had been made in therapy until after the conviction, when respondent admitted his exhibitionism and became more candid. When respondent resumed therapy after seeking to terminate it in August 1993, Dr. Sikorski felt "it was as if he saw the light and came back to the fold." Since that time respondent's attitude toward therapy has changed. Respondent now realizes he needs treatment, not because the Board has ordered it, but because he needs to "reorganize his life and become a responsible person."

Dr. Sikorski is optimistic about respondent's prognosis, although he qualifies that optimism as somewhat "guarded" because respondent's symptoms are so difficult to treat. Dr. Sikorski believes respondent's prognosis will be good only if he continues in and completes the group treatment program he has just begun.

Dr. Sikorski's optimism is based upon a number of factors: 1) Respondent no longer denies his past behavior, which enhances the possibility of a good outcome; 2) Respondent is beginning to more clearly recognize his impulses and to build a way to control them. Dr. Sikorski acknowledges, however, that it is in this latter area that respondent requires "considerable" work; 3) Respondent now has a "good understanding" of the effect of his actions upon his victims; 4) Respondent has shown "significant improvement" in his tendency to externalize blame; and 5) Respondent is "now sufficiently motivated to profit" from the group sex offender program. This motivation comes from respondent's realization that "he has dissipated a lot of time, energy and resources in a very self-defeating manner."

## XI

Dr. Smith agrees with Dr. Sikorski's assessment that personality characteristics are very difficult to change. As a result he is pessimistic, although not "very pessimistic," that respondent's character disorder can be effectively treated. Treatment of respondent's condition would have to be both "intensive and extensive" and would require that respondent have come to the conclusion that his behavior has cost him more than it has benefited him. Even then, his treatment would be "a very big uphill battle." Although he sees respondent's resumption of individual therapy and commencement of group therapy as hopeful signs, Dr. Smith cautions he is unable to judge respondent's motives for these actions and questions why there had been a delay in initiating group therapy if respondent really had a "heartfelt" desire to modify his behavior.

Although very critical of respondent's former lack of candor with his therapist as well as his decision in August 1993 to curtail therapy, Dr. Victor agrees that respondent's actions since September 1993 are hopeful signs toward behavior modification. Dr. Victor believes cognitive-behavioral therapy (the type offered by the East Bay Sexual Offender Treatment Program) is the most helpful treatment for compulsive disorders such as respondent's. He also notes that the fact respondent now recognizes his anti-social urges are likely to reoccur is an important realization on his part.

## XII

Respondent has not been actively engaged in the practice of medicine for at least five years. He has no hospital privileges and belongs to no medical societies. For the past several years respondent has owned and operated a business known as The Insurance Medical Experts. Respondent describes this business as essentially a billing service for a group of approximately 20 independent contractors, each of whom is appropriately



credentialed as a nurse, phlebotomist or laboratory technician, who perform paramedical examinations of insurance applicants. These examinations, which are usually done at the applicant's home or office, generally consist of taking a brief medical history, recording the applicant's height, weight and blood pressure, and obtaining blood and urine specimens. Occasionally, an EKG is also obtained. Respondent performs some of these examinations himself, and has done some 35 to 40 in his office, which is located in his home, over the past year. When he does paramedical examinations of females, respondent always has a third party present. When the examinations are in his office, the third party is respondent's wife.

Respondent has no ongoing patient caseload, makes no diagnoses of patients, provides no treatment and gives no medical advice to his examinees except to advise them to follow-up with their personal physician in the case of an abnormal blood pressure reading. Respondent is not apprised of the results of lab tests he has obtained; those results are submitted directly from the lab to the insurance company.

Respondent believes he does not need a medical license to operate his business as a number of his competitors are not physicians.

#### DETERMINATION OF ISSUES

##### I

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 2234 and 2234(e) in that respondent's unchecked impulsive behavior of a sexually aberrant nature evidences a present or potential unfitness for the practice of medicine and in that respondent committed an act involving dishonesty or corruption which was substantially related to the qualifications, functions and duties of a physician and surgeon.

##### II

Cause for disciplinary action against respondent exists pursuant to Business and Professions Code sections 2234 and 2236 in that respondent has been convicted of a crime substantially related to the qualifications, functions and duties of a physician and surgeon.

##### III

Cause for revocation of respondent's probation exists by reason of the matters set forth in Determinations I and II in

that respondent violated the condition of his probation which required him to obey all laws.

#### IV

Respondent is an admitted sexual offender who engaged in repeated anti-social conduct for a period of at least eight years and suffered two criminal convictions as a result. Even though respondent has twice failed when the Board afforded him the opportunity to retain his license despite this anti-social conduct (diversion and probation), the evidence presented demonstrated respondent is not without redemption.

The evidence of respondent's changed attitude towards psychotherapy and his willingness to undertake treatment for his aberrant behavior is compelling. Respondent entered the Board-imposed psychotherapy in 1992 with the belief it was just that, an imposition on him. Although he became ostensibly more cooperative with Dr. Sikorski, he actually continued his aberrant behavior and withheld that information from his therapist. However, after respondent was convicted in 1993 his attitude changed and he began to acknowledge his exhibitionism and his need for treatment. It is true that for a period, respondent failed to follow through with his therapy with Dr. Sikorski, and even tried to terminate it. However, that was not an entirely surprising turn since, as Dr. Smith testified, when an individual with a personality disorder is made to become anxious about his behavior as a result of therapy, that person will often chose to give up the treatment rather than the behavior. Thus, respondent's attempt to terminate therapy with Dr. Sikorski may simply show he was successfully responding to that therapy. That respondent chose to return to treatment with Dr. Sikorski is evidence of his current willingness to confront his behavior.

Respondent's entry into the East Bay Sexual Offender Treatment Program is further evidence of his willingness to modify his aberrant behavior. That program uses cognitive-behavioral therapy, the method Dr. Victor testified was most helpful towards modifying compulsive behavior. It also appears respondent's current treatment program is dealing with the two areas for which Dr. Victor had initially recommended psychotherapy: respondent's lack of recognition of the effects of his actions upon his victims and respondent's tendency to externalize blame. In at least one of those areas, respondent seems to have responded to therapy; the empathy he showed for S.K. at the hearing appeared genuine.

While a cynic might believe respondent's current attitude toward treatment for his exhibitionism is merely a "courthouse conversion" designed to save his medical license, that does not appear to be the case. To be sure, retention of his license was admittedly one of his motivations for returning

to therapy with Dr. Sikorski in September 1993. That, however, was not a new motivation for respondent; in 1992 he lied to Drs. Smith, Victor and Sikorski about his continued aberrant behavior because he was afraid if he disclosed his actions he would lose his license. Respondent's current attitude seems genuinely driven by his desire to deal with his aberrant behavior in an effort to improve his life, not just to save his license.

V

While "protection of the public shall be the highest priority" for the Division of Medical Quality (Bus. & Prof. Code, §2229(a)), the division "shall wherever possible, take action that is calculated to aid in the rehabilitation of the licensee,..." (Bus. & Prof. Code, §2229(b)).

In the present case, the action most likely to aid in respondent's rehabilitation would be to permit him to retain his license upon strict probationary terms and conditions. Outright revocation of his license would deprive the Board the opportunity of monitoring respondent's current treatment program. Because respondent has not actively practiced medicine for several years, and because his current business apparently does not require that he be licensed, revocation could permit respondent to continue his current vocation without Board oversight. Protection of the public interest would best be served by the imposition of strict probationary terms and conditions directed at respondent's rehabilitation.

Because respondent's prognosis for control of his impulses is somewhat guarded and he still requires "considerable" work in that area, it is determined that the probationary terms should include those previously imposed by the Board as well as a significant period of suspension. Suspending respondent's license for the first year of probation will ensure that he has no patient contact during the heart of his participation in a sexual offenders group treatment program.

ORDER

Certificate number G46572 issued to respondent Stephen Brian Turner, M.D. is revoked pursuant to Determination of Issues I and II, separately and for each of them. In addition, the probation imposed in case No. D-3384 is revoked pursuant to Determination III and the underlying revocation of respondent's certificate is reimposed. However, the revocation is stayed and respondent is placed on probation for seven (7) years upon the following terms and conditions:

1. As part of probation, respondent is suspended from the practice of medicine for one (1) year beginning the effective date of this decision.

2. Respondent shall not examine or treat patients under the age of eighteen (18) years.

3. Respondent shall have a third party present while examining or treating female patients.

4. Within sixty (60) days of the effective date of this decision, respondent shall submit to the Division for its prior approval a course in Ethics, which respondent shall successfully complete during the first eighteen (18) months of probation.

5. Respondent shall continue treatment with John B. Sikorski, M.D., until the Division deems that no further psychotherapy is necessary. If respondent elects not to continue treatment with Dr. Sikorski, he shall, within sixty (60) days of the effective date of this decision, submit to the Division for its prior approval the name and qualifications of another psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Division deems that no further psychotherapy is necessary. Respondent shall have his treating psychotherapist submit quarterly status reports to the Division. The Division may require respondent to undergo psychiatric evaluations by a Division-appointed psychiatrist.

6. Respondent shall continue participation in the East Bay Sexual Offender Treatment Program until respondent has successfully completed that program or until the Division deems that no further participation is necessary, whichever is first. If respondent elects not to continue participation in the East Bay Sexual Offender Treatment Program, he shall, within sixty (60) days of the effective date of this decision, submit to the Division for its prior approval the name and qualifications of another group treatment program for sexual offenders. Upon approval, respondent shall participate in that program until he has successfully completed the program or until the Division deems that no further participation is necessary, whichever is first. Respondent shall have his treatment program submit quarterly status reports to the Division.

7. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

8. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

9. Respondent shall comply with the Division's probation surveillance program.


10. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

11. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

12. Upon successful completion of probation, respondent's certificate will be fully restored.

13. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

Dated: April 18, 1994

  
MICHAEL C. COHN  
Administrative Law Judge  
Office of Administrative Hearings

**EXHIBIT B**

BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

Stephen Brian Turner, M.D. )  
Certificate # G-46572 )

Respondent. )

No. D-5364

NOTICE OF NON-ADOPTION OF  
PROPOSED DECISION

NOTICE TO ALL PARTIES:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality voted not to adopt the proposed decision recommended in this case. The Division itself will now decide the case upon the record, including the transcript.

To order a copy of the transcript, please contact the Transcript Clerk, Office of Administrative Hearings, 501 J Street, Suite 230, Sacramento, CA 95814, phone # (916) 445-4926.

After the transcript has been prepared, the Division will send you notice of deadline date to file your written argument. Your right to argue on any matter is not limited. The Division is particularly interested in arguments on why a different decision should not be made.

In addition to written argument, oral argument may be scheduled if any party files with the Division within 20 days from the date of this notice, a written request for oral argument. If a timely request is filed, the Division will serve all parties with written notice of the time, date and place of hearing.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Division. The mailing address of the Division is as follows:

Division of Medical Quality  
MEDICAL BOARD OF CALIFORNIA  
1426 Howe Avenue  
Sacramento, CA 95825  
(916) 263-2388

Dated: July 1, 1994

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA

BY

*Wicky Doone*  
John Landara  
Chief of Enforcement

COPY

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 VIVIEN HARA HERSH  
Supervising Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 6200  
San Francisco, CA 94102-3658  
4 Telephone: (415) 703-1524

5 Attorneys for Complainant

6  
7 BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
8 STATE OF CALIFORNIA  
9

10 In the Matter of the Accusation )  
and Petition to Revoke Probation )  
11 Against: )

No.D-5364

12 STEPHEN BRIAN TURNER, M.D. )  
26953 Hayward Blvd, Suite 309 )  
13 Hayward, CA 94542 )  
Physician and Surgeon )  
14 Certificate No. G46572, )

**ACCUSATION AND  
PETITION TO REVOKE  
PROBATION**

15 Respondent. )  
16

17 DIXON ARNETT, complainant herein, charges and alleges  
18 as follows:

19 1. He is the Executive Director of the Medical Board  
20 of California, State of California (hereinafter referred to as  
21 "the Board") and makes these charges and allegations solely in  
22 his official capacity.

23 2. On or about November 23, 1981, the Board issued to  
24 respondent Stephen Brian Turner, M.D. (hereinafter referred to as  
25 "respondent") physician and surgeon certificate No. G46572 and is  
26 currently renewed to October 31, 1993. Said certificate has been  
27 previously disciplined and is currently on probationary status as



1 set forth below:

2 On or about July 30, 1985, an accusation was filed  
3 against respondent in Case No. D-3384 before the Board, alleging  
4 a substantially related conviction for three incidences of  
5 indecent exposure between February and March 1984 in Los Angeles,  
6 California and unprofessional conduct for exposing himself and  
7 masturbating in the presence of two minor females at U.S.C.  
8 Medical Center in Los Angeles on or about March 19, 1984.

9 A hearing was held on said accusation on or about June  
10 19, 1991 before a Medical Quality Review Committee panel of the  
11 Board, and effective March 11, 1992, the Division of Medical  
12 Quality of the Board (hereinafter referred to as "the Division")  
13 adopted the decision of the panel finding that respondent was  
14 convicted of a substantially related offense and was guilty of  
15 unprofessional conduct and revoking respondent's certificate,  
16 staying the revocation and placing him on five years' probation  
17 on terms and conditions including, as condition (5) "Respondent  
18 shall obey all federal, state and local laws, and all rules  
19 governing the practice of medicine in California."

20 The Division added two more conditions of probation, a  
21 60 day suspension period and a requirement for community service.  
22 Respondent contested these added provisions by writ of mandate to  
23 the Superior Court for the City and County of San Francisco, and  
24 those two conditions were briefly stayed to on or about April 10,  
25 1992, when the court denied the writ of mandate. Respondent  
26 appealed the denial to the Court of Appeal for the State of  
27 California but no stay was granted, and the Court of Appeal

1 affirmed the decision of the Superior Court. Thus, the decision  
2 of the Board is final as to respondent. A true and correct copy  
3 of the Board's decision in its Case No. D-3384 is attached hereto  
4 as "Exhibit A" and incorporated herein by reference.

5 3. Section 2220 of the Business and Professions Code<sup>1/</sup>  
6 provides that the Division may take action against all persons  
7 guilty of violating the provisions of the Medical Practice Act  
8 (Business and Professions Code § 2000 *et seq.*).

9 4. Section 2234 provides, in pertinent part, that the  
10 Division shall take action against any licensee who is charged  
11 with unprofessional conduct. Unprofessional conduct is defined  
12 therein to include, but not to be limited to "(e) the commission  
13 of any act involving dishonesty or corruption which is  
14 substantially related to the qualifications, functions and duties  
15 of a physician and surgeon."

16 5. Section 2236 provides, in pertinent part:

17 "(a) The conviction of any offense substantially  
18 related to the qualifications, functions, or duties of  
19 a physician and surgeon constitutes unprofessional  
20 conduct within the meaning of this chapter. The record  
21 of conviction shall be conclusive evidence only of the  
22 fact that the conviction occurred.

23 "(b) The division may inquire into the circum-  
24 stances surrounding the commission of the crime in order  
25 to fix the degree of discipline or to determine if such  
26 conviction is of an offense substantially related to  
27 the qualifications, functions, or duties of a physician  
and surgeon. . . . "

24 //

25 //

26

27 1. All statutory references are to the Business and  
Professions Code unless otherwise indicated.

1           6. Title 16 California Code of Regulations section  
2 1360 provides, in pertinent part, that a crime or act shall be  
3 considered to be substantially related to the qualifications,  
4 functions or duties of a person holding a license, certificate or  
5 permit under the Medical Practice Act if, to a substantial  
6 degree, it evidences present or potential unfitness to perform  
7 the functions authorized by the license, certificate or permit in  
8 a manner consistent with the public health, safety or welfare.  
9 Section 1360 further provides that such crimes or acts shall  
10 include, but not be limited to the following: Violating or  
11 attempting to violate, directly or indirectly, any provision of  
12 the Medical Practice Act.

13       FIRST CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

14           7. On or about November 16, 1992, victim S.K.<sup>2/</sup>, a  
15 young female adult, was walking to work on a residential street  
16 in Berkeley, California. Respondent, who was sitting in a parked  
17 car and holding a map in his right hand, hailed S.K. and asked  
18 directions to the University of California campus. S.K. looked  
19 inside and began to give directions. S.K. then noted that  
20 respondent was masturbating his exposed and erect penis with this  
21 left hand, making no effort to conceal his actions. Respondent  
22 continued to ask questions, apparently trying to detain S.K., and  
23 S.K. tried not to let respondent know she noticed what she was  
24 doing and left the scene. As S.K. continued on to walk to work,  
25 respondent circled the block, making U-turns with his car, and  
26

27           2. The victim herein is referred to by initial due to  
considerations of privacy. Respondent may obtain the full name  
of the victim pursuant to any request for discovery.

1 driving past S.K., even parking on two more occasions within  
2 S.K.'s sight. S.K. called the police and reported the license  
3 number of the car, and the car was traced to respondent, who had  
4 leased the vehicle.

5 8. Respondent's conduct, as described above,  
6 constitutes unprofessional conduct under section 2234 and 2234(e)  
7 and therefore, cause exists for disciplinary action under section  
8 2234. Also, since, by this conduct, respondent has failed to  
9 obey the rules and laws of the State of California and of his own  
10 profession, he has violated condition (5) of his probation to the  
11 Board and engaged in the very conduct for which he was first  
12 disciplined, and therefore cause for revocation of probation  
13 exists.

14 SECOND CAUSE FOR DISCIPLINARY ACTION AND REVOCATION OF PROBATION

15 9. The allegations of paragraph 7, above, are  
16 incorporated herein by reference.

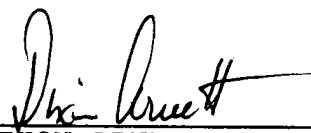
17 10. On or about January 20, 1993, respondent was  
18 arrested and charged with a violation of Penal Code section 314.1  
19 (indecent exposure), a misdemeanor. On or about April 22, 1993,  
20 respondent was found guilty after a jury trial in Case No. 142713  
21 before the Municipal Court of California, City of Berkeley. On  
22 or about June 10, 1993, respondent was sentenced to 36 months  
23 formal probation with terms and conditions including 30 days in  
24 the county jail with approval for work furlough (freeway  
25 maintenance); a \$1000 fine, \$250 probation fee, and \$39.40  
26 restitution to S.K. through the probation department; stay away  
27 from South Berkeley and the victim; and continuing with

1 counseling, not to leave counseling without the permission of his  
2 therapist and/or the probation officer.

3 11. Respondent's conviction constitutes the conviction  
4 of a crime substantially related to the qualifications, functions  
5 or duties of a physician and surgeon under section 2236 and  
6 therefore, cause exists for disciplinary action pursuant to  
7 section 2234. Said conviction also constitutes grounds for  
8 revocation of respondent's current probation since he has  
9 violated condition (5) of his probation and has been convicted of  
10 the very crime for which he was first placed on probation to the  
11 Board.

12 WHEREFORE, complainant requests that the Board hold a  
13 hearing on the matters herein alleged and thereafter issue an  
14 order revoking or suspending physician and surgeon certificate  
15 No. G46572, heretofore issued to respondent Stephen Brian Turner,  
16 M.D.; revoking probationary order in Case No. D-3384 and carrying  
17 out the order that was stayed; and taking such other and further  
18 action as is deemed just and proper.

19 DATED: August 12, 1993

20  
21   
22 \_\_\_\_\_  
23 DIXON ARNETT  
24 Executive Director  
25 Medical Board of California  
26 State of California

27 Complainant

**EXHIBIT A**

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

STEPHEN B. TURNER, M.D. )

No. D-3384

OAH No. L-52478

Physician's and Surgeon's )  
Certificate No. G-046572, )

Respondent. )

**DECISION**

The Division of Medical Quality non-adopted a Proposed Decision by an MQRC panel in this case, and proceeded to decide the case itself upon the record, including the transcript.

The parties were afforded the opportunity to present written and oral arguments before the Division itself.

Having reviewed the entire matter, the Division now makes this decision:

The Division adopts the attached Proposed Decision of the MQRC panel as its decision in this case, except that two more conditions are added to the penalty order, as follows:

10. As part of probation, respondent is suspended from the practice of medicine for 60 days beginning the effective date of this decision.
11. Within 60 days of the effective date of this decision, respondent shall submit to the Division for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least 20

hours a month for the first 24  
months of probation.

All other terms and conditions of the penalty order in  
the Proposed Decision remain the same and are adopted.

The effective date of this decision shall be March 11, 1992

So ordered February 10, 1992

MEDICAL BOARD OF CALIFORNIA  
DIVISION OF MEDICAL QUALITY

By Theresa Chassen



BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )	
Against: )	
	) No. D-3384
	)
STEPHEN B. TURNER, M.D. )	L-52478
	)
Physician and Surgeon )	
Certificate No. G-046572, )	
	)
	)
Respondent. )	

---

PROPOSED DECISION

This matter was heard on June 19, 1991, by a Panel of the Medical Quality Review Committees of Districts 10, 11, and 12, consisting of Marian Harder, Barbara Hurd, R.N., Guy Hartman, M.D., and Jorge Quel, M.D., Chairperson. Rosalyn M. Chapman, Administrative Law Judge of the Office of Administrative Hearings, presided at the hearing. Complainant was represented by Alan Mangels, Deputy Attorney General. Respondent was present throughout the hearing and was represented by Michael Null, an attorney licensed in Illinois.

The record was held open for thirty days for respondent to move for a protective order. On July 8, 1991, the Administrative Law Judge was informed that respondent was requesting that the record be closed. The matter is deemed submitted as of that date.

Stipulated, oral and documentary evidence having been received and the matter submitted, the Panel met in executive session on June 19, 1991, and finds as follows:

FINDINGS OF FACT

1. On its own motion, the Panel takes official notice that the Accusation was made by Kenneth J. Wagstaff solely in his official capacity as Executive Director of the Medical Board (hereafter Board), State of California.

2. On or about November 21, 1981, the Board issued physician and surgeon certificate No. G-046572 to Stephen B. Turner, M.D. (hereafter respondent). Said license is in full force and effect.

3. Respondent received a Bachelor of Science degree from the University of Illinois at Chicago; and a Medical Degree from the Chicago Medical School in June 1980. Thereafter, he completed an one year internship in radiology at the Medical University of South Carolina. Respondent came to Los Angeles in 1981 to participate in a diagnostic radiology residency at the University of Southern California (U.S.C.) Medical Center. Respondent did not complete that residency program.

4. In 1984-5 respondent relocated to Sacramento, California, and was employed by Kaiser- Permanente as a radiologist through December 1985. Respondent entered a residency program in nuclear medicine at the San Francisco General Hospital in 1986. He did not complete that residency program.

5. Since mid-1987, respondent has owned and operated his own medical office in Hayward, California. Respondent's solo practice involves performing physical examinations on applicants for insurance, applicants for truck driver licenses, and personal injury victims. Respondent usually does not examine minor patients, and he seldom examines female patients. It is not clear whether respondent also treats the patients he examines or whether he refers them elsewhere for treatment.

6. On March 19, 1984, while a radiology resident, respondent exposed himself and masturbated in the presence of two minor females on the premises of U.S.C. Medical Center, 1200 North State Street, Los Angeles, California.

7. Respondent's conduct described above in Finding 6 is substantially related to the duties, qualifications or functions of a physician or surgeon.

8. A. On or about May 9, 1984, in the Municipal Court of the Los Angeles Judicial District, Los Angeles County, California, respondent pleaded nolo contendere to three counts of engaging in lewd and dissolute conduct (Penal Code Section 647(a)) occurring on three different dates between February and March of 1984 when respondent exposed himself to public view in public places.

B. Respondent's convictions were set aside pursuant to Penal Code Section 1203.4 on February 10, 1986.

C. Said convictions are substantially related to the duties, qualifications or functions of a physician or surgeon.

9. The facts and circumstances underlying respondent's convictions were not established with specificity.

10. Before his arrest on or about March 1984, respondent had exposed himself to public view on several other occasions (not only the incident in Finding 6), but was not arrested or charged with those incidents.

11. Following his conviction in 1984, respondent voluntarily entered the Board's diversion program. At some point respondent petitioned for early dismissal from the diversion program, which was denied, and respondent then withdrew from the diversion program without completing it.

12. As part of the diversion program, respondent was treated by several different mental health care providers, including John Sikorski, M.D., who treated him on five occasions between September 4 and December 23, 1986. Other than that, respondent has not undergone any long term, intensive psychotherapy.

13. As a result of the therapy he did receive, respondent believes that his exhibitionism was the result of stress he was experiencing in the radiology residency program and from his parents' rejection of his wife.

14. Respondent has not been arrested or convicted since 1984; and his conduct has not been the subject of any ongoing investigation.

15. Respondent does not yet accept full responsibility for his conduct and its consequences. He continues to blame others for every misfortune he has experienced during his life: his family is partly responsible for his exhibitionism; the head of the nuclear medicine residency had a personal grudge against him; the diversion evaluation committee treated him arbitrarily and changed its mind; and so on. Respondent's reactions to the exigencies of life are not very mature; and he could benefit from psychotherapy. However, this does not mean that respondent is now a danger to the public health and safety.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, and the stipulation of the parties herein, the Panel makes the following determination of issues:

CONCLUSIONS OF LAW

1. Grounds exist to discipline respondent pursuant to Business and Professions Code (BPC) Sections 2227 and 2228 in that respondent conducted himself unprofessionally within the meaning of BPC Section 2234(e), based on Findings 6 and 7 above.

2. Added grounds exist to discipline respondent pursuant to BPC Section 2227 and 2228 in that respondent conducted himself unprofessionally within the meaning of BPC Sections 2234 and 2236 in that he was convicted of a crime which is substantially related to the duties, qualifications or functions of a physician, based on Finding 8 above.

3. It is determined that although respondent has made strides towards rehabilitation, he is not yet rehabilitated from his conviction, based on Findings 11-15 above.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

ORDER

Physician and surgeon's certificate No. G-046572 issued to Stephen B. Turner, M.D., is hereby revoked, pursuant to Conclusion of Law No. 1, separately, and Nos. 2 and 3 jointly, and for all; provided, however, that said revocation is stayed and respondent is placed on probation for five (5) years on the following terms and conditions:

1. Respondent shall not examine or treat patients under the age of eighteen (18) years.

2. Respondent shall have a third party present while examining or treating female patients.

3. Within thirty (30) days from the effective date of this Decision, and on a periodic basis thereafter as may be required by the Division or its designee, respondent shall undergo a psychiatric evaluation by a psychiatrist appointed by the Division, who shall furnish a psychiatric report to the Division.

4. If, based upon the psychiatric report submitted to it, the Division requires respondent to undergo psychiatric treatment, respondent shall, within thirty (30) days of that requirement notice from the Division, submit to the Division for its prior approval the name and qualifications of a psychiatrist of respondent's choice. Upon approval of the treating psychiatrist by the Division, respondent shall undergo and continue psychiatric treatment until further notice from the Division. Respondent shall have the treating psychiatrist submit quarterly status report to the Division.

5. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

6. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

7. Respondent shall comply with the Division's probation surveillance program.

8. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

9. In the event respondent should leave California to reside or to practice outside the state, he must notify the Division in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

If respondent violates probation in any respect, the Division, after giving him notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed.

If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended accordingly.

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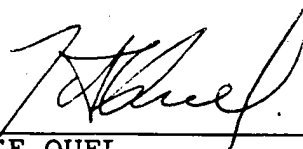
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Upon successful completion of probation, respondent's certificate shall be fully restored.

DATED: \_\_\_\_\_

*July 31 1991*



\_\_\_\_\_  
JORGE QUEL  
Chairperson

RMC:btm